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103D CONGRESS
1ST SESSION

H. R. 1038

To direct the Secretary of Health and Human Services to provide Federal minimum standards for health insurance for the elderly, and to amend title XVIII of the Social Security Act for the purpose of directing the Secretary to study methods of further improving the regulation of health insurance for the elderly and to evaluate methods by which the Medicare Program could more fully meet the health insurance needs of the elderly.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mrs. BYRNE introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To direct the Secretary of Health and Human Services to provide Federal minimum standards for health insurance for the elderly, and to amend title XVIII of the Social Security Act for the purpose of directing the Secretary to study methods of further improving the regulation of health insurance for the elderly and to evaluate methods by which the Medicare Program could more fully meet the health insurance needs of the elderly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Senior Citizens Health Insurance Standards Act of 1993".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that—

(1) health care costs are a major expense and source of concern for the elderly;

(2) Medicare covers less than half of the health care costs for the elderly;

(3) because of their condition and needs, many elderly have to purchase private health insurance;

(4) the paucity of consumer information in the field of health insurance for the elderly makes it almost impossible for those seeking such insurance to make reasoned choices;

(5) many of the policies sold to supplement Medicare coverage provide inadequate coverage and low return to consumers;

(6) the many instances of abuse and deception in the marketing of health insurance for the elderly, which have been documented by recent congressional hearings, constitute a national disgrace; and

(7) these instances of abuse, deception, inadequate coverage, and low return are now a national problem and the Federal Government has a responsibility to assist in the remedy.

(b) It is, therefore, the purpose of this Act to direct the Secretary to require Federal minimum standards for the sale of health insurance for the elderly and to take other action designed to provide future benefits to the elderly who need assistance in meeting their health insurance needs.

MINIMUM STANDARDS

SEC. 3. (a) Each State shall, no later than two years after the date of enactment of this Act, submit a plan to the Secretary of Health and Human Services for the purpose of specifying the minimum standards applicable to health insurance for the elderly in such State. Such plan shall specify minimum standards which—

(1) provide that at least 75 per centum of the premiums collected from the sale of such health insurance be returned in the form of benefits provided under such health insurance, as specified by the Secretary in regulations;

(2) limit the exclusions of preexisting conditions in accordance with regulations prescribed by the Secretary;

(3) provide that policies of such health insurance be written in simplified language which can be understood by purchasers, as specified in regulations prescribed by the Secretary;

(4) prohibit the sale of such health insurance if such health insurance duplicates the coverage provided under the Medicare Program, except that such a sale may be made if the purchaser signs a written statement expressing his knowledge of the duplicative coverage, as specified in regulations prescribed by the Secretary; and

(5) are in accordance with disclosure provisions, specified in regulations, which the Secretary determines necessary to protect purchasers of such insurance, including, but not limited to, provisions which require a simplified written statement, to all prospective purchasers, of—

(A) the percentage of premiums collected for such health insurance which is returned in the form of benefits;

(B) the name and address of the agent who sold the policy and a toll free telephone number of the insurance company;

(C) general information which briefly, simply, and adequately explains the premiums, benefits, renewability, coverage, deductibles, coinsurance charges, and other matters; and

(D) general information which briefly, simply, and adequately explains the specific mat-

ters covered by the insurance which are not covered under the Medicare Program.

(b) The Secretary shall issue final regulations referred to in subsection (a) no later than one hundred and eighty days after the date of enactment of this Act.

(c) The Secretary shall approve or disapprove any plan submitted pursuant to subsection (a) no later than ninety days after such submission.

(d)(1) In the case of any State whose plan is disapproved under subsection (c), the Secretary shall return such plan to the State with a detailed explanation of the reasons for such disapproval. The State may submit a new plan within thirty days after receiving such explanation, and the Secretary shall approve or disapprove such plan no later than thirty days after such submission.

(2) If the Secretary disapproves a new plan submitted in accordance with the second sentence of paragraph (1) of this subsection, such disapproval shall be subject to judicial review in the United States court of appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted only by the State involved and shall be commenced within sixty days after the date on which the disapproval was issued. The provi-

sions of subsection (f) shall apply and shall not be stayed pending any such review.

(e)(1) The Secretary shall conduct oversight activities in each State in which a plan is approved for the purpose of assuring that such plan is carried out in each such State. Each State shall submit an annual report to the Secretary containing a detailed account of the operation of the plan in the State during the previous year. Such report shall be in such form and contain such information as is specified by the Secretary in regulations.

(2) No change may be made in a plan by any State unless approved by the Secretary before the effective date of such change.

(3) In any case in which the Secretary finds that a State, which has an approved plan, is not carrying out such plan, the Secretary shall notify the State of such finding and provide the State with detailed information about the basis of such finding. The Secretary shall provide the State with an opportunity to correct any problems specified by the Secretary or to present evidence that such problems do not exist. After a reasonable time for allowing for corrections of the problems or for submission of evidence that such problems do not exist, the Secretary shall make a final determination that an approved plan is or is not being carried out in the State. If the Secretary de-

termines that such a plan is not being carried out in the State, the provisions of subsection (f) shall apply with respect to the State. A final determination by the Secretary that a State plan is not being carried out in any State shall be subject to judicial review under the conditions described in subsection (d)(2).

(f) In any case in which—

(1) a State does not submit a plan under subsection (a);

(2) the Secretary fails to approve a plan submitted by a State after giving such State an opportunity to submit a new plan under subsection (d); or

(3) the Secretary makes a final determination under paragraph (3) of subsection (e) that an approved plan is not being carried out in such State;

the Secretary shall implement, as soon as practicable, a plan in such State which carries out the minimum standards described in subsection (a) with respect to the sale of health insurance for the elderly. The Secretary shall implement such plan in such State until the Secretary determines that such State will carry out the plan. The Secretary may prescribe any regulations that are necessary to implement and administer such plan in any State.

(g) Any provision of State law which would prevent the establishment and implementation in that State of a

plan implementing the minimum standards described in subsection (a) is preempted by the provisions of this Act.

DEFINITIONS

SEC. 4. For purposes of section 3—

(1) the term "health insurance for the elderly" means health insurance (as specified in regulations prescribed by the Secretary) sold to persons who, at the time of such sale, are (A) aged sixty-five or older, or (B) receiving benefits under the Medicare Program;

(2) the term "Medicare Program" means the health insurance program for the aged and disabled established by title XVIII of the Social Security Act;

(3) the term "Secretary" means the Secretary of Health and Human Services; and

(4) the term "State" means each of the fifty States of the United States and the District of Columbia.

STUDIES

SEC. 5. Section 1875 of the Social Security Act is amended by adding the following new subsections at the end thereof:

"(c) The Secretary shall conduct a study for the purpose of making recommendations to the Congress with respect to a uniform approach to the regulation of all private health insurance which is offered for sale to the aged and

disabled. Such study shall include, but not be limited to, an examination of the following matters—

"(1) minimum loss ratios;

"(2) uniform exclusions of pre-existing conditions;

"(3) the various means of differentiating categories of coverage for purchasers of such health insurance;

"(4) the effectiveness of labels, numerical ratings, or disclosure information in assisting the aged and disabled to compare policies;

"(5) whether the sale of dread disease and other indemnity policies should be banned or limited;

"(6) whether agents' commissions for selling such health insurance should be limited;

"(7) methods of eliminating misconduct by agents in selling policies;

"(8) the need for and costs of individualized health insurance counseling for the aged and disabled;

"(9) whether claims handling requirements should be imposed;

"(10) whether the sale of overlapping and/or duplicative coverage should be banned; and

"(11) whether policy standardization is necessary to promote competition.

The Secretary shall, no later than two years after the date of enactment of this subsection, transmit a report to the Congress containing the findings and recommendations of such study and proposed legislation concerning a comprehensive approach to the regulation of such health insurance.

"(d) The Secretary shall conduct a study for the purpose of making recommendations to the Congress with respect to the feasibility of health insurance coverage under this title in addition to the coverage provided under parts A and B. Such study shall include, but not be limited to, an examination of the following matters—

"(1) the need for such additional coverage;

"(2) eligibility requirements;

"(3) alternative approaches to providing such additional coverage;

"(4) cost estimates of the alternative approaches, taking into consideration the different coinsurance and deductible requirements, coverage provisions, and eligibility standards of each approach; and

"(5) alternative methods of financing such additional coverage.

The Secretary shall, no later than two years after the date of enactment of this subsection, transmit a report to the Congress containing the findings and recommendations of such study.".

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